

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Electronically Filed

JOSEPH S. PROVANZANO,

Plaintiff,

v.

BRIDGETTE M. PARKER, individually and
doing business as Parker View Farm;
PARKER VIEW FARM, INC.,
ROBERT M. TURNER, individually and
doing business as LM Turner Stables; and
LM TURNER STABLES, INC.

Defendants.

Case No. 10-cv-11893

ANSWER

Come the Defendants, Bridgette M. Parker, individually and doing business as Parker View Farm; Parker View Farm, Inc.; Robert M. Turner, individually and doing business as LM Turner Stables; and LM Turner Stables, Inc., (“Defendants”), by counsel, and for their Answer to Plaintiff’s Verified Complaint, state as follows:

1. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in numerical paragraph number 1 of the Verified Complaint, and therefore deny the same.

2. Defendants admit the allegations contained in numerical paragraph number 2 of the Verified Complaint.

3. Defendants deny the allegations contained in numerical paragraph 3 of the Verified Complaint.

4. Defendants deny the allegations as to address contained in numerical paragraph 4 of the Verified Complaint.

5. The allegations contained in numerical paragraph 5 of the Verified Complaint are not such that must be admitted or denied. If it is deemed that a response is required, Defendants deny paragraph 5 of the Verified Complaint.

6. Defendants admit the allegations contained in numerical paragraph number 6 of the Verified Complaint.

7. Defendants deny the allegations contained in numerical paragraph number 7 of the Verified Complaint.

8. Defendants deny the allegations contained in numerical paragraph 8 of the Verified Complaint.

9. The allegations contained in numerical paragraph 9 of the Verified Complaint are not such that must be admitted or denied. If it is deemed that a response is required, Defendants deny paragraph 9 of the Verified Complaint.

10. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in numerical paragraph number 10 of the Verified Complaint, and therefore deny the same.

11. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in numerical paragraph number 11 of the Verified Complaint, and therefore deny the same.

12. Defendants deny the allegations contained in numerical paragraph 12 of the Verified Complaint.

13. Defendants deny the allegations contained in numerical paragraph 13 of the Verified Complaint.

14. Defendants deny the allegations contained in numerical paragraph 14 of the Verified Complaint.

15. Defendants deny the allegations contained in numerical paragraph 15 of the Verified Complaint.

16. Upon information and belief, Plaintiff has shown horsessince2006,includingMild Emotion. Defendants deny the remaining allegations contained in numeric al paragraph 16 of the Verified Complaint.

17. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in numerical paragraph number 17 of the Verified Complaint, and therefore deny the same.

18. Defendants deny the allegations contained in numerical paragraph 18 of the Verified Complaint.

19. Defendants deny the allegations contained in numerical paragraph 19 of the Verified Complaint.

20. Defendants deny the allegations contained in numerical paragraph 20 of the Verified Complaint.

21. Defendants deny the allegations contained in numerical paragraph 21 of the Verified Complaint.

22. Defendants deny the allegations contained in numerical paragraph 22 of the Verified Complaint.

23. Defendants deny the allegations contained in numerical paragraph 23 of the Verified Complaint.

24. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in numerical paragraph number 24 of the Verified Complaint, and therefore deny the same.

25. Defendants deny the allegations contained in numerical paragraph 25 of the Verified Complaint.

26. Defendants deny the allegations contained in numerical paragraph 26 of the Verified Complaint.

27. Defendants deny the allegations contained in numerical paragraph 27 of the Verified Complaint.

28. Defendants deny the allegations contained in numerical paragraph 28 of the Verified Complaint.

29. Defendants deny the allegations contained in numerical paragraph 29 of the Verified Complaint.

30. Defendants deny the allegations contained in numerical paragraph 30 of the Verified Complaint.

31. Defendants deny the allegations contained in numerical paragraph 31 of the Verified Complaint.

32. In responsetotheallegationscontainedinnumericalparagraph32oft he Verified Complaint,DefendantsstateonlythatParkeneverreceived thereferencedequipmentfromPlaintiff. Allotherallegationsaredenied.

33. Defendantsarewithoutsufficientknowledgeorinformationtofor mabeliefastothe truthoftheallegationscontainedinnumericalparagraphnumber33of theVerifiedComplaint,and thereforedenythesame.

34. Defendantsarewithoutsufficientknowledgeorinformationtofor mabeliefastothe truthoftheallegationscontainedinnumericalparagraphnumber34of theVerifiedComplaint,and thereforedenythesame.

35. Defendantsdenytheallegationscontainedinnumericalparagraph35of theVerified Complaint.

36. Defendantsdenytheallegationscontainedinnumericalparagraph36of theVerified Complaint.

37. Defendantsdenytheallegationscontainedinnumericalparagraph37o ftheVerified Complaint.

38. Defendantsdenytheallegationscontainedinnumericalparagraph38of theVerified Complaint.

39. Defendantsdenytheallegationscontainedinnumericalparagraph39of theVerified Complaint.

40. Defendantsdenytheallegationscontainedinnumericalparagraph40o ftheVerified Complaint.

41. Defendantsdenytheallegationscontainedinnumericalparagraph41of theVerified Complaint.

42. Defendants deny the allegations contained in numerical paragraph 42 of the Verified Complaint.

43. Defendants deny the allegations contained in numerical paragraph 43 of the Verified Complaint.

44. Defendants deny the allegations contained in numerical paragraph 44 of the Verified Complaint.

45. Defendants deny the allegations contained in numerical paragraph 45 of the Verified Complaint.

46. Defendants deny the allegations contained in numerical paragraph 46 of the Verified Complaint.

47. The letter referenced in numerical paragraph 47 of the Verified Complaint speaks for itself, the Defendants deny the contents.

48. Defendants deny the allegations contained in numerical paragraph 47 of the Verified Complaint.

49. Defendants deny the allegations contained in numerical paragraph 48 of the Verified Complaint.

50. Defendants deny the allegations contained in numerical paragraph 49 of the Verified Complaint.

51. Defendants deny the allegations contained in numerical paragraph 50 of the Verified Complaint.

52. Defendants deny the allegations contained in numerical paragraph 51 of the Verified Complaint.

53. Defendants deny the allegations contained in numerical paragraph 52 of the Verified Complaint.
54. Defendants deny the allegations contained in numerical paragraph 53 of the Verified Complaint.
55. Defendants deny the allegations contained in numerical paragraph 54 of the Verified Complaint.
56. Defendants deny the allegations contained in numerical paragraph 55 of the Verified Complaint.
57. Defendants deny the allegations contained in numerical paragraph 56 of the Verified Complaint.
58. Defendants deny the allegations contained in numerical paragraph 57 of the Verified Complaint.
59. Defendants deny the allegations contained in numerical paragraph 58 of the Verified Complaint.
60. Defendants deny the allegations contained in numerical paragraph 59 of the Verified Complaint.
61. Defendants deny the allegations contained in numerical paragraph 60 of the Verified Complaint.
62. Defendants deny the allegations contained in numerical paragraph 61 of the Verified Complaint.
63. Defendants deny the allegations contained in numerical paragraph 62 of the Verified Complaint.

64. Defendantsdenytheallegationscontainedinnumericalparagraph63of theVerified
Complaint.

65. Defendantsdenytheallegationscontainedinnumericalparagraph64of theVerified
Complaint.

66. Defendantsdenytheallegationscontainedinnumericalparagraph65of theVerified
Complaint.

67. Defendantsdenytheallegationscontainedinnumericalparagraph66of theVerified
Complaint.

68. Defendantsdenytheallegationscontainedinnumericalparagraph67of theVerified
Complaint.

69. Defendantsdenytheallegationscontainedinnumericalparagraph68of theVerified
Complaint.

70. Defendantsdenytheallegationscontainedinnumericalparagraph69of theVerified
Complaint.

71. Defendantsarewithout sufficientknowledgeor informationtofor mabeliefastothe
truthoftheallegationscontainedinnumericalparagraphnumber70of theVerifiedComplaint,and
thereforedenythesame.

72. Defendantsdenytheallegationscontainedinnumericalparagraph71of theVerified
Complaint.

73. Defendantsdenytheallegationscontainedinnumericalparagraph72of theVerified
Complaint.

74. Defendantsdenytheallegationscontainedinnumericalparagraph73of theVerified
Complaint.

75. Defendants deny the allegations contained in numerical paragraph 74 of the Verified Complaint.
76. Defendants deny the allegations contained in numerical paragraph 75 of the Verified Complaint.
77. Defendants deny the allegations contained in numerical paragraph 76 of the Verified Complaint.
78. Defendants deny the allegations contained in numerical paragraph 77 of the Verified Complaint.
79. Defendants deny the allegations contained in numerical paragraph 78 of the Verified Complaint.
80. Defendants deny the allegations contained in numerical paragraph 79 of the Verified Complaint.
81. Defendants deny the allegations contained in numerical paragraph 80 of the Verified Complaint.
82. Defendants deny the allegations contained in numerical paragraph 81 of the Verified Complaint.
83. Defendants deny the allegations contained in numerical paragraph 82 of the Verified Complaint.
84. Defendants deny the allegations contained in numerical paragraph 83 of the Verified Complaint.
85. Defendants deny the allegations contained in numerical paragraph 84 of the Verified Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are barred by the statute of limitations.
3. Plaintiff's claims are barred by the doctrines of res judicata, estoppel, affirmation, ratification and waiver.
4. Plaintiff's claims are barred by the doctrines of unclean hands and accord and satisfaction.
5. The relief requested by Plaintiff is barred by the doctrine of election of remedies.
6. Plaintiff's claims are barred by the tolerances of accuracy.
7. Plaintiff's claims are barred because they are "de minimus" in nature.
8. Plaintiff's claims are barred because he has failed to plead them with specificity as required under the Federal Rules.
9. Plaintiff's claims are barred because the actions of Defendants did not violate the Massachusetts General Laws. Further, Plaintiff's claims are governed by Kentucky law.
10. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for punitive, exemplary or treble damages against Defendants.
11. Plaintiff's claim must be brought in Kentucky pursuant to an agreement between the parties.

12. Plaintiff's Complaint is barred as a result of the lack of fraud, malice or intentional wrongful conduct by Defendants.

13. At all relevant times, Defendants' actions were reasonable and in good faith under the circumstances.

14. The alleged false representations raised in the Complaint and attributed to Defendants were not material.

15. Plaintiff's claims should be dismissed because Defendants are not subject to jurisdiction in Massachusetts.

16. Defendants specifically rely upon those affirmative defenses found in Fed.R.Civ.P. 8 and that may be applicable based upon the evidence produced in this matter. Further, Defendants reserve the right to supplement and/or amend their Answer to include additional affirmative defenses as necessitated by the evidence discovered throughout the course of litigation.

WHEREFORE, Turner and Parkerview respectfully request that the Court enter judgment against Provanza and dismiss his Complaint and award the following relief:

- A. Declaratory relief as set forth above in favor of Turner and Parkerview;
- B. Damages as set forth above in favor of Parkerview;
- C. An award of all costs, including attorneys' fees in favor of Turner and Parkerview;
- D. A trial by jury;
- E. All other relief to which Parkerview and Turner are entitled.

Respectfully submitted,

/s/GrahmnN.Morgan
GrahmnN.Morgan(*Admitted Pro Hac Vice*)
DINSMORE&SHOHL LLP
250 West Main Street, Suite 1400
Lexington, Kentucky 40507
(859)425-1000
(859)425-1099 fax
grahmn.morgan@dinslaw.com

and

Michael J. Mott
DINSMORE&SHOHL LLP
255 E. Fifth Street
1900 Chemed Center
Cincinnati, Ohio 45202
(513)977-8200
(513)977-8141 (Facsimile)
michael.mott@dinslaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Answer was served electronically with the Clerk of the Court by using the CM/ECF system on this the 18th day of August, 2011, upon all parties of record.

/s/GrahmnN.Morgan
Counsel for Defendants